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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,576	10/18/2001	Roy Hammett	2691-18	5031

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NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Rd.
Arlington, VA 22201-4714

EXAMINER

CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 08/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/978,576

Applicant(s)

HAMMETT, ROY *CR*

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears in the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☒ Claim(s) 18 and 19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 3. 6) ☐ Other: .

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Claims 18 and 19 are objected to because of the following informalities: Claim 18 recites structure pertaining to C-shaped ribs which has not been shown in the drawings. Appropriate correction is required. Appropriate correction may include the cancellation of the claim(s) or the removal of the objectionable portion of the claim(s). Do not submit new matter.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 recites the limitation "said substantially L-shaped ribs" in line 3. There is insufficient antecedent basis for this limitation in the claim.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1, 3, 6, 7, ^{11, 12, 14}~~13~~ and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hammett ('487).

~~Claims 12, 13 and 23~~ are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Apps ('328).

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Claims 17, 20 and ~~21~~ are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Apps et al. ('277).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hammett ('487) (Hammett) in view of Apps et al. ('461) (Apps).

Hammett discloses the invention except for the number of ribs in each group being three. Apps teaches a group of three ribs as shown in the bottom perspective view of Fig. 3. It would have been obvious to add more ribs to each group in order to further strengthen the entire connection of the side and end walls to the bottom.

Claims 4, 5, 8, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammett in view of Apps et al. ('277) (Apps).

Hammett discloses the invention except for the nesting ribs, the double wall thickness of the handle bars and the bottle support ribs. Apps teaches nesting ribs (80), double wall thickness handle bars as shown in Fig. 1, and bottle support ribs (79). It would have been obvious to add nesting ribs in order to provide a nesting stop so that the crates to not nest too tightly and become locked together. It would have been obvious to add another wall to make a double walled handle bar in order to reinforce the handle so that the handle doesn't break or warp when lifting a loaded crate. It would have been obvious to add a pair of bottle support ribs in order to adequately

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reinforce the hollow caps so that the inner wall of the hollow cap is not weakened due to repeated impact with bottles.

^{1-12 14-16}
Claims ~~1-3, 16~~, 18, 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apps et al. ('277) (Apps 1) in view of Apps ('328) (Apps 2) and Hammett ('487)

(Hammett).

^{Claims 12, 14, 15, 16, 23}
Apps 1 discloses the invention except for the connection in the middle of the handle. Apps 2 and Hammett both disclose the connection in the middle of the handle. It would have been obvious to add a connection in the middle of the handle in order to support the middle portion so that the handle doesn't weaken or break due to excessive deflection and stress near the middle of the handle due to lifting of full crates.

^{1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11}
For claims 18 and 19, Apps 1 discloses the invention except for the L-shaped ribs. Hammett teaches L-shaped ribs. It would have been obvious to add L-shaped ribs in order to further strengthen the connection of the side and end walls to the bottom.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Apps 1.

Apps 1 discloses a single bottle support rib for inner wall of the hollow cap. Apps 1 discloses the invention except for the pair of bottle support ribs 79. It would have been obvious to provide a pair of ribs in order to further reinforce or further protect the inner wall of the hollow cap.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 703-308-1035. The examiner can normally be reached on M-Th 6:30-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc
August 22, 2002